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A SURVEY OF THE PROBATE COURT'S INVOLVEMENT IN LAND TRANSACTIONS IN LIBERIA

NOVEMBER 2012

November 2012

This publication is made possible by the generous support of the American people through the United States Agency for International Development (USAID/Liberia) under the Liberia Monitoring and Evaluation Program (L-MEP) implemented by The Mitchell Group, Inc., Contract Number 669-C-10-00-00181. The contents are the responsibility of the authors and do not necessarily reflect the views of USAID or the United States Government.

A SURVEY OF THE PROBATE COURT'S INVOLVEMENT IN LAND TRANSACTIONS IN LIBERIA



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November 9, 2012

ACKNOWLEDGEMENT

The successful outcome of this study is firstly attributed to the time, effort and enormous energy of the University of Liberia-Pacific Institute of Research (UL-PIRE) Team. From the UL-PIRE Team special recognition is made of the following personalities for their valuable commitments: Senior Researcher, Prof. Stephen M. Jubwe, Junior Researcher and UL-PIRE Center Director Mr. Jemee K. Tegli, and Mr. Curtis H. Taylor, Project Supervisor.

It is also important to note that the study could not have been achieved without the cooperation and support from a cross section of people including the officials of Liberia's Land Commission, Center for National Documents, Archives and Records (CNDRA), officials of the Ministry of Lands, Mines and Energy Department of Survey and Cartography and the respondents themselves who provided their opinions on the various variables measured or investigated.

The technical input of our L-MEP colleagues, particularly Jerry D. Zangar, M&E Specialist, Millennium Challenge Corporation (MCC) Liberia Threshold Program who coordinated the entire study exercise and Dr. Michael Richards, L-MEP's Knowledge Management Specialist, who supported data entry and analyses, complemented with managerial guidance from Randal J. Thompson, LMEP Chief of Party and James Z. Whawhen, Deputy Chief of Party were indispensable to the realization of the successful completion of the study. Together we made it happen and our sincere appreciation and gratitude to all.

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ABBREVIATIONS

CNDRA	Center for National Deeds and Records/Archives (CNDRA)
DSCL	Department of Lands, Surveys, and Cartography
GoL	Government of Liberia
KIIs	Key Informant Interviews
LISGIS	Liberian Institute for Statistics and Geo-Information Services
L-MEP	Liberia Monitoring and Evaluation Project
LPIS	Land Policy Institutional Support Project
MLME	Ministry of Land, Mines and Energy
UL-PIRE	University of Liberia-Pacific Institute for Research & Evaluation
USAID	United States Agency for International Development

Figure 1: Map of Liberia



EXECUTIVE SUMMARY

The Liberia Monitoring and Evaluation Program (LMEP) has a contractual agreement with USAID to provide independent monitoring and evaluation of the Millennium Challenge (MCC) Liberia Land Policy Institutional Support Project (L-PIS), implemented by Tetra Tech/ARD. As part of its responsibility, L-MEP contracted with UL-PIRE to conduct a study on the Probate Court involvement in land transactions in Liberia. The purpose of the study is to find out what the involvement of the Probate Court in land transactions in Liberia is, whether it delays land registration, and whether it is a value-added to the land registration process. The study also measured the public's knowledge of the services provided by the Probate Court.

Using key informant guide, the study team collected qualitative data on three categories of respondents. They included:

- a) Court officials' description of services the Probate Court provides the public for the probation of land related documents
- b) The public knowledge on the probation services provided by the Probate Court.
- c) Land Administration offices (CNDRA & DLSC) senior managers' perception on the impact of the Probate Court involvement in land transaction in Liberia, whether it fast tracks or delays the registration of land related documents.

The study was conducted in Gbarnga (Bong County), Buchanan (Grand Bassa), Sanniquellie (Nimba County) and Monrovia, Montserrado County. A total of 156 respondents-comprising County Circuit (Monthly and Probate) Court's officials, community people, and land administration offices' (DLSC & CNDRA) senior managers participated in this study. The Probate Court is located in Monrovia, Montserrado County while in the counties, the Circuit Court travels from county-to-county and probates documents relating to personal and real properties as well as performs other probate and administrative functions.

The study sites above were selected as a result of population density and ongoing socio-economic activities. A combined purposive and opportunistic sampling method was used to select the survey respondents. Court officials and land administration office managers were purposely selected because they are relevant stakeholders in land transaction process in Liberia. In the community, the survey team talked to whomever they came in contact with. Whenever the team completed interview with one respondent, that respondent identified someone else in their neighborhood that has probated his/her land related documents and that person became the team's next interviewee.

Findings: Overall, the survey found that there is a considerable discrepancy in terms of the time it takes for the Probate Court to probate land documents as well as the amount of money individuals pay for the service. Especially in the counties, the probation process can take up to three months, a delay that obviously negatively impacts the land registration process. In addition, respondents reported paying far more than the \$15 official fee for probation of land

documents, indicating that under-the-table payments are a major problem in the system. Although the majority of citizen respondents claimed that they understand the probation process, the court officials in the counties reported that the majority of citizens do not understand the process. This finding indicates that perhaps the citizens may have a misunderstanding of the process that needs to be addressed by a public awareness campaign. Concern was also raised by some respondents that the three day period during which the impending probation of land is published is insufficient to determine whether the land ownership is disputed or not.

The following provides a summary of the survey findings categorized under the three thematic areas listed above:

Findings related to services provided by Monrovia Monthly and Probate Court for probation of land related documents: Unfortunately only the Probate Court Clerk, designated by the Judge to respond on his behalf, was the only key informant interviewed at the Monthly and Probate Court. The others refused on ground that they were very busy. However, the Clerk explained that the service the Probate Court provides is the legalization of land-related documents. He described the probation procedure at the Monrovia Probate Court as follows:

- Go to Revenue office pay Real Estate Tax
- Attach the Real Estate Tax Receipt to document and return to Court
- Court publishes document for three days for any objection from the public
- If no objection from the public within three days, client returns to Court and court completes the probation process by affixing relevant signatures to the document.

The key informant averred that the public is aware of the procedure. Regarding how the public obtained the information on the probation procedure, the respondent said the public obtained the information through the following channels: Flyers posted at street corners and Revenue office bulletins, radios and one-on-one awareness sessions conducted by court staff at the court. The Probate Court staff in Monrovia said that clients pay US\$15.00 for the probation of their land deeds. This is the official cost of probation. At the outstation county courts (30%) of respondents stated that clients pay between US\$15.00 –20.00 USD for probation. According to the Probate Court staff in Monrovia, it takes three (3) working days to complete the probation of land related documents whereas in the outstation counties, 65% of respondents said that it takes three (3) days to complete probation when courts are in session and (15%) said one (1) week. When the Court is not in session, it can take up to three months to probate land documents.

Findings Related to Services Provided by County Circuit Courts. A total of 13 court officials were interviewed. Overall, all of the respondents (100%) said the main probation service the Probate Court provides is to legalize real estate documents including deeds, leases etc. Thirty-eight percent of the court staff averred that the public is aware of the steps required by the court for the probation of land related documents, while 62% stated the public is not aware.

Regarding how the public obtained the information on land related documents registration procedure, 20% percent of respondents who affirmed the public being aware of the procedure claimed that the public received the information about the registration procedure only from lawyers while 40% stated that they received this information from both radio and flyers. Fifty-four percent of the court staff indicated that the court requires a lawyer or surveyor to probate land related documents, whereas 46% stated that the owner or lessee could carry on the process. Thirty-eight (38%) of the court officials said the cost of probate of land deed is less than USD\$25.00 while 30.8% said the fee for lease is less than USD\$25.00. Eighty-five per cent (85%) of the outstation Circuit court staff said the duration for the probate of land related documents is less than one week. Whenever the outstation Circuit Courts are not in session, there are three alternatives for the probate of land related documents. First, land related document probate can be done by the County resident Judge (15% of respondents said). Second, one can sponsor court staff to do the probate in Monrovia (7% of respondents). Third, one can wait until the court re-opens (46% of respondents said). Thirty-two (32%) said they do not know any other alternative. Regarding how long it takes one to complete the registration of land related documents when using any of the above alternatives when courts are not in session, respondents said the following:

- Using the services of County Resident Judge takes three (3) months to complete the process (30% of respondents)
- Waiting for the re-opening of court would take 4-6 weeks (15% of respondents).

Findings related to the Public Knowledge on the services the Outstation Circuit Courts and the Probate Court provide for the probate of land related documents and experiences with the probate process. Eighty-three percent of the respondents interviewed from the public listed the services provided by the Circuit/Probate Court deal with the legalization of land documents and 12% claimed that they did not know what services are provided by the Court. Fourteen of a total of 136 respondents representing the public in the capital cities of four counties accounting for 10%, correctly described the steps required for the probate of land related documents. On the issue of whether the respondent probated his/her deed himself or herself, 48% (i.e. 65 respondents) said they probated their deeds themselves while 52% (i.e. 71 respondents) said they had someone else do it for them. Of the 71 respondents who had someone else probate their land related documents, 35% claimed that their documents were probated by surveyors while 39% of had them done by friends or relatives. Reasons for not probating land related document themselves include: 63% was due to busy schedule, 10% indicated that the process is required to be carried out by a lawyer and 8% claimed distance away from the court. Regarding the public knowledge on the cost of probate, 37% said the court told them the probate fee ranges between U\$25.00-50.00, while 19% said they did not

know the fee. Respondents declared that they did pay for the process of probating land related documents-41% actually paid between U\$25-50 for probation of land related document. Fifty-five percent of respondents who completed the probation process said that they received official receipts while 45% said they did not receive receipt. Additionally 37% of respondents said they paid extra money as tip or 'cold water' in order to speed up the process. Regarding incident of dispute arising from a land whose documents have been probated by one person and being claimed by another, 16 persons, constituting 12% admitted they have had such experience while 88%, amounting to 120 respondents, said they have not experienced such incident of dispute.

Findings Related to Land Administration Offices Senior Managers' Perception on the impact of Probate Court Involvement on the registration of land related documents in the land transaction process in Liberia. The team interviewed six senior managers from DLSC and CNDRA respectively. On the overall the six senior managers said the quality of services provided by the Probate Court is good. They do not think the involvement of the Probate Court in land transaction process in Liberia has negative effect on the pace of the registration of land related documents.

Conclusion. The following conclusions are drawn from the findings of the study:

All court staff are aware of the types of services the Probate Court provide for the public and averred that the public is aware of the procedure required for the probation of land related documents. And that the public has been informed of the probation procedure through radios, flyers, one on one education with clients visiting the court. Ironically it is interesting to note that only 10% of the respondents correctly stated the probation of land related documents procedure. When courts are in session the probation process takes shorter time, approximately less than a week than when they are not. For example alternative means client revert to when courts are not in session requires one to three months to complete probation of land related documents.

When the outstation courts are in session, it takes not more than a week to complete the probation process. Majority of clients registering land related documents at the Probate Court said the actual amount they pay for the probation process is in the range of USD\$25-50 contrary to the official fee of \$15-20USD disclosed by the court. There is a significant cash difference between the official probation fee and the actual amount paid. Not many people in the outstation counties are aware of the steps required for the probation of land related documents. Clients pay 'tips or cold water' to hasten the probation of their documents. The steps required for the probation of land related documents are the same in all counties. Probation is an indispensable legal requirement that precedes the registration of land related documents at the CNDRA, so any delay in the probation process correspondingly slows down the pace of land

deeds registration at the CNDRA. Indeed probate adds undue time to deed registry, particularly for outstation counties. There is weak mechanism in place for ensuring the legitimacy of land ownership before being sold to a buyer. As such a land that is probated one person could be claimed by another, thus bring about conflict. Hence, probate of land related documents does not necessarily guarantee ownership, tenure and security. The three day notice period published by the court with the intent of obtaining feedback regarding the legitimacy of the land being probated from the public is too short.

Recommendations. Whereas the Probate Court involvement in land transaction in Liberia remains a constitutional mandate, the Judiciary must strengthen the probate process to an extent that ensures the significant reduction of the number of days associated with the probate of land related documents, particularly for outstation counties. For example when the outstation county courts are closed GOL must ensure key court staff members have the requisite knowledge and skills to continue the probate of land related documents instead of waiting for the reopening of court which takes longer time. The outstation county courts need to intensify awareness campaign for the public on the steps required for the probate of land related documents. The best medium for such awareness must be community radio stations. The Judiciary must establish a mechanism that will eradicate the practice of gratuity (“cold water” or “under the table tips”) payment to expedite the probate process. The Court must establish a system that ensures thorough background investigation of the legitimacy of land ownership before probating, and should not rely only on exception from the public within the three day public notice published by the court.

2.0 BACKGROUND AND PURPOSE

The Land Policy Institutional Support Project (LPIS) is one of the three Millennium Challenge Liberia Threshold Projects designed to improve the policy and legal frameworks for land management in Liberia, thereby increasing the security of tenure, investment in land, and land market activity. The LPIS has three components. The first component focuses on increasing the understanding of property rights issues. To achieve this objective, LPIS provides training and capacity building to the Land Commission; conducts case study research on land and resource use, tenure and governance in ten rural communities; conducts research into women’s access to land in customary and statutory settings; and assists the Land Commission to develop land policy and law. The second component works with DLSC and MLME and focuses on rebuilding land administration through capacity-building of survey professionals and other staffs, institutionalization of the training capacity, and applying modern technology to assist with land surveying. The third component works to improve the efficiency of deed registry at CNDRA through rehabilitation of the facility, as well as the provision of equipment, the establishment of

a Customer Service Center, the establishment of standard operating procedures, and the digitization and indexing of deed records.

The project works in collaboration with national partners such as the Land Commission of Liberia, the Department of Lands, Surveys, and Cartography (DLSC), the Center for National Deeds and Records/Archives (CNDRA), and the Ministry of Land, Mines and Energy (MLME) to deliver its interventions.

One of Liberia's key institutions that play an important role in property acquisition is the Probate Court. The Probate Court's mandate by legislation is that each property title document be probated before being finally registered by CNDRA.

Probation adds legal validity to the registration of all land related documents. However, the Probate Court process also adds time to the registration process. Since one of the deliverables of the LPIS project is to reduce the number of days associated with the registration of property from 50 days to minimum of (30) days in Liberia, it is therefore important to identify the area(s) where there has been time lag in the land transaction process. The registration of land related documents is completed generally within one week at CNDRA but little is known about how much time the Probate Court adds to the probation of land related documents. Probation precedes registration of land related documents. No land related documents by law cannot be registered at CNDRA unless they have been probated. Hence the purpose of the study is to find out from the public and land administration offices the impact of the Probate Court involvement in land transaction process in Liberia. Does the probation process negatively affect the registration of land related documents due to unnecessary delays associated with it or not? The findings from this study will inform advocacy by stakeholders to decide whether it is still relevant and necessary to maintain the Probate Court involvement in the land transaction process of in Liberia.

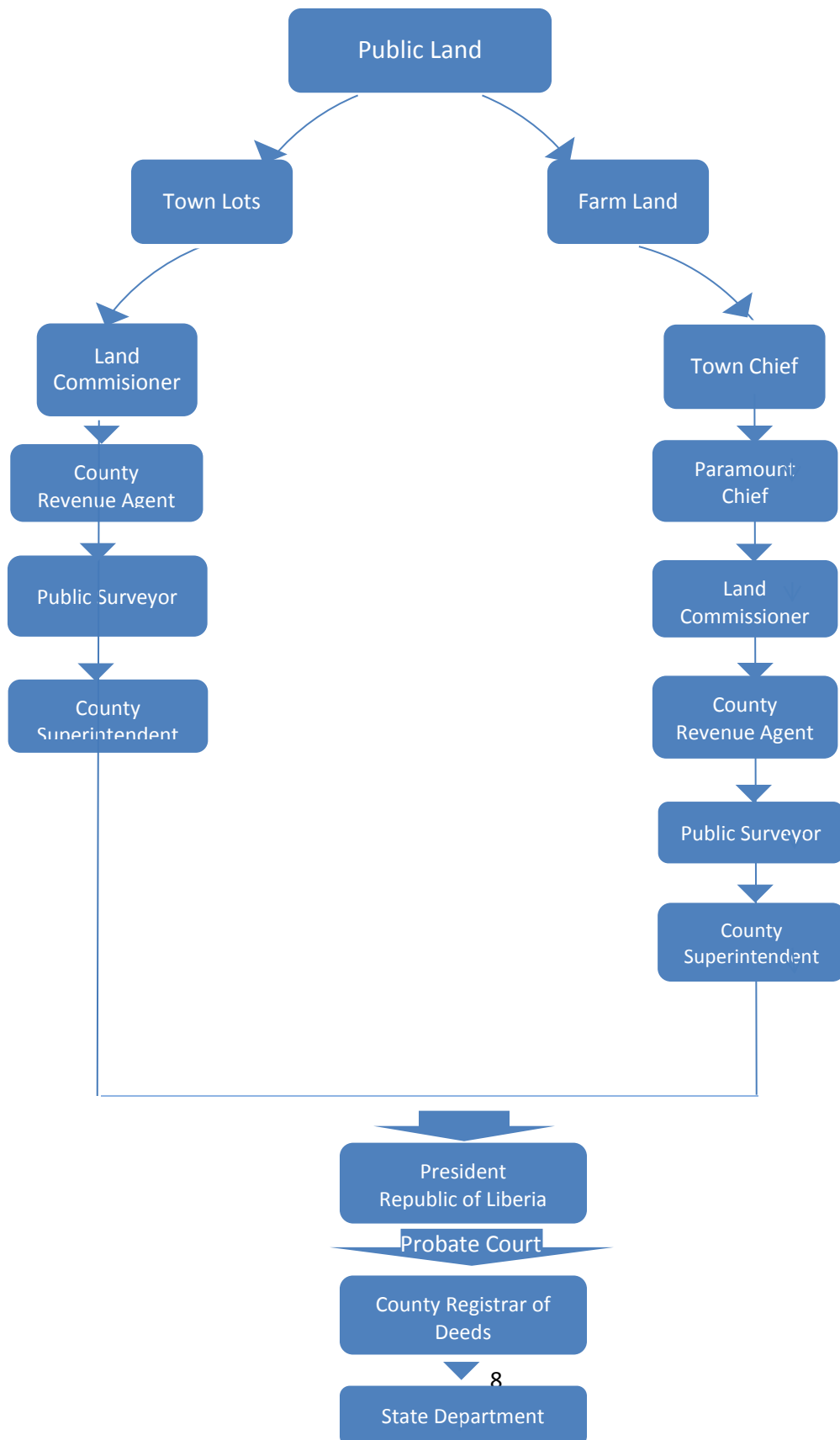
2.1 History and Mandate of the Probate Court

Article 65 of the Liberian Constitution creates the highest Court of the land, the **Supreme Court of Liberia**. This article further empowers the National Legislature to establish other subordinate and specialized Courts in the Republic. Pursuant to this authority, the following Courts are established in addition to the Supreme Court:

1. The Circuit Courts
2. Debt Courts
3. Monthly and Probate Courts
4. Tax Courts, Labor Courts
5. Traffic Courts
6. Juvenile Courts
7. Magistrate Courts
8. Justice of the Peace Courts
9. Criminal Courts

Jurisdiction of the Monthly and Probate Court: The Circuit Courts in each of the Counties sit in Monthly and Probate jurisdiction to probate Wills of deceased persons affecting personal and real properties; grant Letters Testamentary and Administration; direct and control the conduct and settle the accounts of executors and administrators; enforce payment of debts of testators and intestates and of their legacies and inheritance and direct the distributions of estates; The Court also may order the sales and distribution of the real property of deceased persons; and to perform other functions concerning real and personal properties of deceased persons. The County of Montserrado and the District of Careysburg operate Monthly and Probate Courts outside of the jurisdiction of the circuits. The Monthly and Probate Courts have exclusive original jurisdiction over all matters of probate concerns stated supra. Further, it exercises appellate jurisdiction in cases from courts not of record within their respective magisterial and justice of the peace areas involving actions to obtain payment of debt and matrimonial causes arising under tribal customary law. The Probate Court was established primarily to provide legality over title deeds and in so doing minimize the problems and issues associated with said instruments. Rule #5 governing the monthly Probate Courts succinctly spells out its functions: "All instruments, documents and other papers other than wills, necessary to be Probated, shall be ordered in open courts and recorded by the clerk in the minutes for the day's sitting, after which it shall be bulletined for at least three (3) days in the local daily newspaper of several circulations before being carried by the Sheriff. This order shall only be given in the absence of objections interposed to probation of the documents. In case of objections given orally, time will be allowed as in the case of caveats for written objections to be filed in keeping with statute. Bulletin of these matters shall be placarded on the required three (3) days to give the public notice of the intention⁷." Since all lands are Public lands, but there is a distinction between urban or town land and farm land, the Probate Court establishes the legality of land or title deed ownership (See Fig.1 for summary of procedure for purchasing land).

Figure 2: Summary of Procedure for Purchasing Land



3.0 METHODOLOGY

3.1 Study Method

This was a descriptive type of study which afforded targeted respondents the opportunity to provide their views or opinions on the impact of the involvement of the Probate Court in land transactions in Liberia. The team triangulated information from the Probate Court, the public and land administration offices select staff.

3.2 Selection of Study Sites and Respondents

The study was carried out in Saniquellie, Gbarnga, Buchanan and Monrovia. These four capital cities out of Liberia's 15 counties were selected based on population density and ongoing socio-economic activities.

The respondents of the study were court official themselves, members of the public who have probated land related documents and land administration offices senior managers e.g. DLSC and CNDRA senior managers.

3.3 Overall Study Questions for LPIS

This study provides the information required to evaluate the success of the LPIS Project to achieve its overall objective to improve the policy and legal frameworks for land management in order to increase security of tenure, investment in land, and land market activity. The data collected can assist L-MEP in developing a foundation to measure progress in achieving the three results LPIS has committed to, namely:

1. An increased understanding of property rights issues;
2. Rebuilding land administration system; and
3. Establishing a more efficient deed registry process.

This study may particularly illustrates how the Probate Courts could delay the deed registry process and also if the Courts are authorizing non-legal deeds.

3.4 Specific Study Questions

Specific questions or concerns to be addressed by this project include:

- What role does the Probate Court serve in the land acquisition process?
- What is the legal foundation for requiring Probate Court involvement in the land acquisition process?
- What is the schedule of the Probate/Circuit Court in the counties and how long do individuals in the counties have to wait to have their land documents probated?

- How long does it take the Court to probate the documents once they have received them?
- What process does the Court use to review the land documents and what verification methods do they employ to assure the legality of the transfer and/or recording?
- How much does the participation of the Court cost to individuals purchasing or recording land?
- What under-the-table payments are required to expedite the process?
- How long do people in the various counties have to wait for the Probate Courts to be in session in their counties and what impact does this have on the speed of the land registration process?
- What is the reported experience of individuals who have had their land documents probated through the courts in terms of time, actual, as opposed to published cost, and in terms of the verification of their land documents?
- What land disputes have arisen because the Courts have probated false documents?
- What is the perception of the MLME on the roles and requirements of the Probate Courts?
- What is the perception of senior managers in CNDRA and DLSC regarding the roles of the Courts and the problems that are created by the involvement of the courts?

3.5 Design of Data Collection Tools

A moderator questionnaire guide was developed to guide the key informant interview process. This was discussed with LPIS project senior staff and LMEP to ensure it satisfied the specific study questions and expectations of the project senior managers. The data collection instrument was unanimously agreed upon.

3.6 Sampling Method

The team used purposive and opportunistic sampling methods for the selection of the respondents. The Circuit Court Officials and land administration offices senior managers were purposely selected because of their knowledge of the mandate and activities of the Probate Court as regards its involvement in the land transaction process in Liberia. On the other hand, because of the difficulty associated with easily identifying on site people who have registered land related documents before among the public, opportunistic sampling techniques were used, meaning people were interviewed in communities and streets as the team encountered them. Information e regarding the next interviewee was provided by one who has completed his /her interview earlier with the team.

3.7 Sample Size

A total of 156 respondents comprising of 136 persons from the public, 14 court officials and six land administration offices (DLSC & CNDRA) senior managers participated in the study and provided their opinions on the various variables that were investigated. Court officials interviewed included County Attorneys, Clerks of Court, Bailiffs and judges and for the

government land administration offices respondents, directors and department heads respectively.

3.8 Data Collection & Quality Assurance

UL-PIRE data collection team received half- day training in the administration of the data collection instrument. Following the training the Key Informant Moderator Guide was piloted in the Peace Island Community in Monrovia and necessary changes made thereafter.

Data collection was conducted from September 10th to 14th, 2012. Trained enumerators in Monrovia visited the Probate Court DLSC, CNDRA and community members while the outstation team visited the county circuit courts and streets of county capitals. Each team provided respondents an overview and purpose of the study and obtained their consent in consideration of ethical procedure before conducting an interview. During their interactions with the targeted populations, the interviewers offered tokens of appreciation to interviewees for 20 minutes of interviews. Interviews were conducted in Liberian English and devoid of any personal identifiers of the respondents,

The field team supervisors ensured daily debriefing sessions with the enumerators to monitor progress on data collection. Completed data collection forms were validated for quality assurance and properly stored.

Ethical approval was granted by the Institutional Review Board (IRB) of UL-PIRE Africa Center prior to project implementation.

4.0 DATA ANALYSIS AND PRESENTATION

One hundred fifty-six respondents participated in the Probate Court Study, during which 136 respondents from the public in four capital cities were selected by opportunistic sampling and 20 respondents representing the Center for National Deeds and Records/Archives (CNDRA) and Department of Land, Survey and Cartography (DLSC) via purposive sampling. The later number comprised three judges, three county attorneys, four Probate Courts clerks and four sheriffs/bailiffs, as well as six senior managers from CNDRA.

4.1 Data Entry, Management and Storage

The data were entered into simple Excel spread sheets. Behavioral data were entered into SPSS. Data entry was done after the validation of the forms by the team leaders, Junior and Senior Researchers. Data analysis was conducted using Excel and EPI Info.

The qualitative analyses were performed based on the following steps: (1) the transcription of the KIs, including the compilation of manual field and observation notes, into excel files, (2) the development of thematic codes. After reading about 25% of the initial qualitative interviews, a preliminary coding manual was developed that included the codes representing potential key

themes, for example, within the context of land tenure-related issues, etc. These codes reflected, in part, the contents and domains of the moderator's guides, (3) the coding of textual data. Relevant codes were assigned to specific responses and comments, as well as the enumerators' observational field notes.

4.2 Survey Results and Discussions

The results, based on information obtained from Probate Court Officials, community members' feedback and Senior Managers, are described.

4.2.1 Overall Analysis of Respondents' profiles

Table 1: Distribution of Respondents by Gender

Gender	Frequency	Percent
Female	42	26.9%
Male	114	73.1%
Total	156	100.0%

Twenty seven percent (27%) of the respondents from the respondents who participated in the Probate Court survey was females and seventy three (73%) were male.

Table 2: Project Sites by Target Populations

Main Sites	Respondents								Total
	Circuit Court Judge	County Attorney	Clerk of Court	Sherriff	Public	Probate Court	CNDRA	DACL	
Gbarnga	1	1	1	1	20				24
Buchanan	1	1	1	1	20				24
Sanniquellie	1	1	2	1	21				26
Monrovia					75	1	3	3	82
TOTAL	3	3	4	3	136	1	3	3	156

4.2.2 Findings related to Monrovia Probate Court

One of the LPIS Project key deliverables is to considerably reduce the timeframe associated with property registration in Liberia. The role of the Probate Court is very crucial in the realization of this objective since by law probate of title documents must precede final property registration by CNDRA. In Montserrado County, the Probate Court operates throughout the year but in the

counties, the Probate Courts are a component of the Circuit Courts (County level courts) which operates seasonally, closing and reopening every six weeks.

The key informant averred that the public is aware of the procedure. Regarding how the public obtained the information on the probation procedure, the respondent said the public obtained the information through the following channels: Flyers posted at street corners and Revenue office bulletins, radios and one on one awareness sessions conducted by court staff at the court.

The Probate Court staff in Monrovia said that clients pay US\$15.00 for the probation of their land deeds. At the outstation county courts (30%) of respondents admitted clients pay between US\$15.00 –20.00USD for probation. According to the Probate Court staff in Monrovia, it takes three (3) working days to complete the probation of land related documents.

Findings Related to Services provided by outstation Circuit Courts:

All of the respondents from the court uniformly described the procedure for the probation of land related documents as follows:

- Carry land document to the Probate Court
- Public notification of transaction
- Payment to Revenue
- Return to Probate Court with flag receipt
- Final probation with seal of approval from the court

Table 3: Number of Steps Described by Court Officials Required for Probation

No. of steps described	Frequency	Percent
One step	0	0%
Two steps	2	15%
Three steps	5	39%
Four steps	4	31%
Five steps	2	15%
Total	13	100%

Only 2 court staff from the outstation county courts, constituting 15%, were able to clearly state all of the steps required to probate land related documents correctly.

Table 4: Court Officials' perception of Public Awareness of Step Required for Probation

Public awareness of the steps for probation of land documents	Frequency	Percent
Yes	8	62%
No	5	38%
Total	13	100%

Thirty-eight percent of the court officials averred the public is aware of the steps required at the court for the probate of land related documents, while 62% stated the contrary.

Table 5: Court Officials' Accounts of How Public Receive Awareness

Source	Frequency	Percent
Lawyer only	1	20%
Radio & Poster awareness	2	40%
Poster awareness only	1	20%
Lawyer, Radio & Poster awareness	1	20%
Total	5	100%

Twenty percent of respondents, accounting for five out of 13, from the courts claimed that the public receive information about the steps required for probation only from lawyers; 40% stated that public got to learn the steps from both the radio and poster awareness; 20% claimed information received was only via poster awareness, while 20% maintained that the public learn about the process via the combined sources.

Table 6: Court Officials' Account of who is required to Probate Document

Person required to probate	Frequency	Percent
Owner or Lessee	6	46%

Lawyer	6	46%
Surveyor	1	8%
Total	13	100%

On the issue of whether the court requires the buyer or lessee himself/herself to go through the probate process, 46% of the court officials indicated that the court requires a lawyer to probate land related documents, whereas 46% stated that the owner or lessee could carry on the process.

Table 7: Court Officials' knowledge of probate Fees.

Amount charged for probating deeds	Frequency	Percent
<US\$25.00	10	76.9%
US\$25.00-50.00	0	0.0%
US\$51.00-75.00	0	0.0%
Don't Know	3	23.0%
Total	13	100%

Approximately 77% of respondents said the cost of probate of land deed is less than USD\$25.00 while 23% had no knowledge on the cost of probate.

Table 8: Court Officials' Account of Fee for Probating Leases

Amount charged for probating leases	Frequency	Percent
Free	5	38.4%
<US\$25.00	4	30.8%
US\$25.00-50.00	4	30.8%
US\$51.00-75.00	0	0.0%
Don't Know	0	0.0%
Total	13	100%

Thirty-eight (38%) of the respondents claimed that the cost for probating leases is free, while 30.8% said the fee for lease is less than USD\$25.00.

Table 9: Alternative means used when Circuit Court closes

Alternative means used by the Circuit Court	Frequency	Percent
No alternative means	11	84.6%
Transport clerk to obtain judge's	1	7.7%

signature		
Don't know	1	7.7%
Total	13	100%

Approximately 85% of the outstation courts staff said there are no alternative means because the probate session of the court does not close because there is always a resident judge in the county to handle the probating of land related documents. Only one person, accounting for 8% of respondents from the outstation courts said the Probate Court Clerk is transported to the judge's location for signature and seal.

Findings related to services provided by Monrovia Monthly and Probate Court for probation of land related documents

Unfortunately, only the Probate Court Clerk, designated by the Judge to respond on his behalf, was the key informant interviewed at the Probate Court. The others refused on ground that they had very busy schedules to attend. However, the Clerk explained that the service the Probate Court provides is the legalization of land-related documents. He mentioned two of the steps in the probation of deeds and indicated that the public is indeed aware of the steps of probation through the lawyers. The Clerk averred that the owner/lessee is required to carry on the process.

The Probate Court staff in Monrovia said that clients pay US\$15.00 for the probation of their land deeds. The process takes less than one week and there are no alternatives because the Probate Court does not close.

4.2.3 Public Knowledge/Perception of Probate Court

Majority of the respondents representing the public are knowledgeable to the work of the Probate Court as well as most of the steps required to probate land related documents.

Table 10: Distribution of Public by Educational Level

Education	Frequency	Percent
AA Degree	6	4.4%
Arabic	2	1.5%
College Dropped Out	28	20.6%
College Graduate	17	12.5%
Elementary Level	15	11%
High School	54	39.7%
Never Been to School	8	6%
Professionals	5	3.7%
Vocational Education	1	0.7%
Total	136	100%

Approximately 40% of the respondents had high school education; 17(12.5%) college graduate; and 15 (11%) had elementary education.

Table 11: Public Knowledge of Services Provided by Probate Court

Services Provided	Frequency	Percent
Legalize land related documents	92	68%
Legalize and register land related documents	15	11%
Legalize and register land related documents and settle land disputes	3	2%
Register land related documents	4	3%
Legalize and register land related documents and settle land related disputes	3	2%
Settle land related disputes	3	2%
No idea of services provided by the Court	16	12%
Total	136	100%

Eighty-three per cent (83%) of the respondents interviewed from the public listed the services provided by the Circuit/Probate Court deal with the legalization of land documents and 2% indicated that the court only settle land disputes, 3% averred that the courts register land related documents and 12% don't know what services are provided by the Court.

Table 12: Public Knowledge of Steps Required for Probation

No. of steps described	Frequency	Percent
One step	16	12%
Two steps	18	13%
Three steps	31	23%
Four steps	43	32%
Five steps	14	10%
No idea of the steps	14	10%
Total	136	100%

Fourteen of a total of 136 respondents representing the public in the capital cities of four counties accounting for 10%, correctly described the steps required for the probation of land related documents; 10% of respondents had no idea of what the steps were for probating documents.

Table 13: Source of Public Knowledge of Probation Procedures

Source	Frequency	Percent
Court	29	21%
Radio	6	4.5%
Workshops	4	3%

Lawyer	8	6%
Poster awareness	2	1.5%
Surveyors	21	15%
Friends & relatives	50	37%
Land Commissioner	2	1.5%
No idea about the steps	14	10.5%
Total	136	100%

A larger percentage, 37%, of the respondents representing public opinion claimed that they learned the steps from friends and relatives, which was followed by the court at 21%. 10.5% claimed that they had no idea about the steps.

On the issue of whether the respondent probated his/her deed himself or herself, 48% (i.e. 65 respondents) said they probated their deeds themselves while 52% (i.e. 71 respondents) said they had someone else do it for them.

Table 14: Distribution of who executed Probation Process Other Than Self

Category	Frequency	Percent
Court official	3	4%
Surveyor	25	35%
Lawyer	13	18%
Friend or relative	28	39%
Land Seller	2	3%
Total	71	100%

Of the 71 respondents who had someone else probate their land related documents, 35% claimed that their documents were probated by surveyors while 39% of had them done by friends or relatives.

Table 15: Reason for probating the land related documents myself

Reason for not probating document self	Frequency	Percentage
Required to be done by lawyer	7	10%
Very busy schedule	45	63%
Due to ill health at the time	3	4%
Distance away	6	8%
Language barrier	4	6%
Other family member's responsibility	6	8%
Total	71	100%

Sixty-three (63%) of respondents claimed that reason for not probating documents themselves was due to busy schedule, 10% indicated that the process is required to be carried out by a lawyer and 8% claimed distance away from the court.

Table 16: Public Knowledge of Fee Charged by Probate Court

Standard fee in US\$	Frequency	Percent
Free	8	6%
<U\$25	19	14%
U\$25-50	50	37%
U\$51-75	11	8%
U\$76-100	19	14%
≥U\$100	3	2%
No idea of the fee charged	26	19%
Total	136	100%

Thirty-seven per cent said the court told them the probation fee ranges between U\$25.00-50.00 while 19% said they did not know the fee.

Table 17: Amount actually paid by client for Probation

Actual amount Paid in US\$	Frequency	Percent
Free	6	4%
<U\$25	20	15%
U\$25-50	56	41%
U\$51-75	18	13%
U\$76-100	20	15%
>U\$100	16	12%
Total	136	100%

The table indicates that 41% of respondents representing the public say that they actually paid between U\$25-50 for probation, while 15% paid between U\$76-100.

Clients who completed the probation process received official receipts for the amount paid, 55% said yes they received official receipt while 45 % said they did not receive receipt. Additionally 37% of respondents said they paid extra money as tip or 'cold water' in order to speed up the process.

Table 18: Duration for the Completion of the Probation Process

Duration	Frequency	Percent
Three days	37	27%
One to two weeks	53	39%
Three to four weeks	29	21%
More than one month	16	12%
Can't remember	1	1%
Total	136	100%

Thirty nine percent of the respondents said that it took between one to two weeks complete the probation process; 27% indicated that the process lasted for three days.

Regarding incident of dispute arising from a land whose documents have been probated by one person and being claimed by another, 15 persons, constituting 11% admitted they have had such experience while 89%, amounting to 121 respondents, said they have not experienced such incident of dispute. In order to arrive at a settlement, out of the 15 respondents who have been involved in such dispute, 60% said they went to the court to settle it, 20% to the seller and 6.7% to the surveyor.

Table 19: Experience of Dispute Arising after Probation of land document

Dispute Arising after Probating of document	Frequency	Percent
Yes	121	89%
No	25	11%
Total	136	100%

Eighty-nine percent of respondents claimed that they have not had any disputes after their document had been probated, while 11% have had disputes.

Table 20: Place to seek settlement of dispute

Settlement of Dispute	Frequency	Percent
Circuit Court	9	60%
Lawyer	1	6.7%
Surveyor	1	6.7%
Land Seller	3	20%
District Commission Office	1	6.7%
Total	15	100%

Of the 15 who had experienced dispute after the probating of land documents, 60% claimed to have gone to the Circuit Court to settle the dispute, 20% to land seller and 6.7% to the surveyor.

Table 21: Alternative means of probating during the closure of the Circuit Court

Alternative means when Circuit Court closes	Frequency	Percent
Transport clerk to obtain judge's signature	11	8%
Use service of resident Judge	125	92%
Total	136	100%

Eight percent of respondents representing the public averred that when the court closed the term of court they transported the clerk to locate the judge and obtain his signature, while 92% claimed that there is always a judge to handle probation.

The outstation Circuit Courts are seasonal courts and as such close and reopen at specific intervals, approximately every six week intervals. When closed, 8% of the respondents said the court either refers them to Monrovia or tell them to transport the clerk to obtain the judges signature for probation; 92% said that there is no other alternative because there is always a resident judge to handle probation process. All respondents in Montserrado County indicated that the Monthly and Probate Court does not close.

4.2.4 Findings on Senior Managers of DLSC and CNDRA

The team interviewed six senior managers from Department of Lands, Surveys and Cartography-DLSC and Center for National Deeds and Records/Archives-CNDRA respectively. These two institutions play very pivotal role in land transactions and administrations. All six senior managers (100%) explained that the probation services the Circuit Court provides the public are concerned with the legalization of land related documents; three respondents (50%), additionally, explained that the Court also adjudicates land related cases.

Table 22: Senior Managers' Overall Rating of Probate Court

Overall rating of Probate Court	Frequency	Percent
Excellent	3	50%

Good	2	33%
Satisfactory	1	17%
Unsatisfactory	0	0%
Total	6	100%

Eighty-three percent (83%) of the senior managers rate the overall quality of the probation services provided by the court as being between good and excellent.

Table 23: Senior Managers' knowledge of the Probate Court Function

Perception of Probate Court	Frequency	Percent
Curtail legal problems at registration	2	33%
Render documents legal	3	50%
Questionable involvement	1	17%
Total	6	100%

Senior managers' perceptions of the Probate Court reveal that 50% perceived that the Court renders land related documents legal, while 33% say it curtails legal problems that may occur at registration at CNDRA.

Table 24: Land Administration Offices Senior Managers' perception on the impact of the Probate Court's Involvement on Land related documents Registration

Perception	Frequency	Percent
Accelerate the Process	5	83%
Slow down pace of registration Process	1	17%
Total	6	100%

Eighty-three percent (83%) of senior managers believe that the involvement in the registration process of land related documents accelerates the land related document registration process, while 17% claims that their involvement slows down the process.

The Probate Court involvement accelerates the pace of deed registration at CNDRA because all relevant legal requirements that CNDRA needs to cross-check would have been done by the Probate Court before the client eventually takes his/her land related documents to CNDRA for registration.

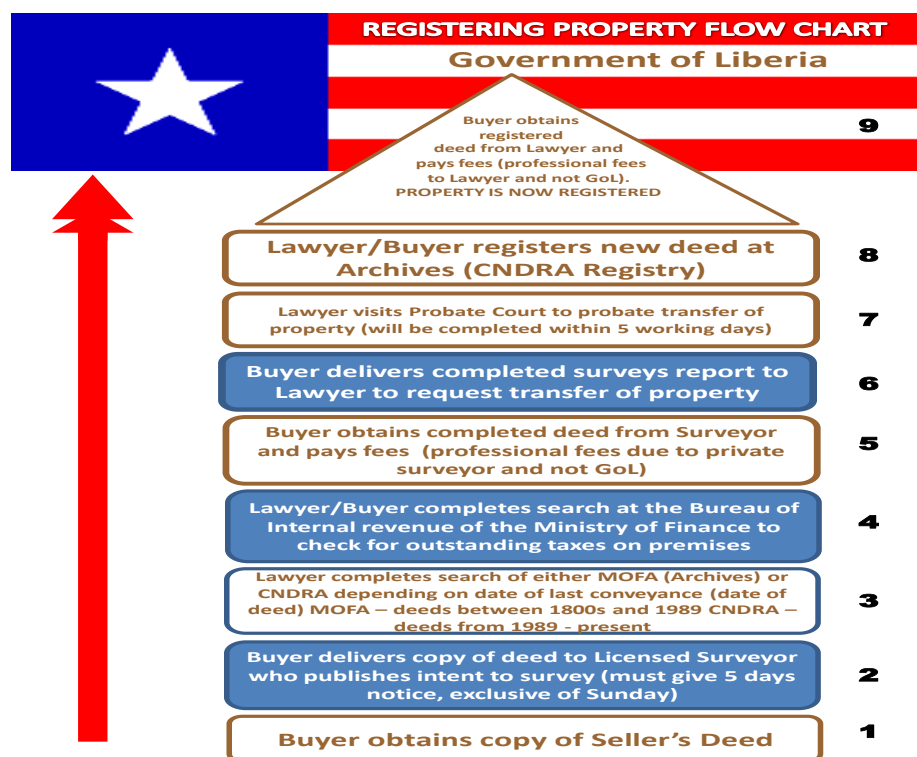
On the other hand, one senior manager thinks the Probate Court involvement in the land transaction process in Liberia slows down the registration of land related documents at CNDRA because the Probate Court does not issue probated land related documents to individuals as they complete the probation process but rather keep all probated documents for a particular term of court and issue same in bulk at once to all clients who probated their instruments during that period. Consequently, if an individual completes his/her process earlier, he/she has to wait for the others instead.

4.3 Recommendations made by Senior Managers of DSLC and CNDRA

Senior managers of the DLSC and CNDRA also advanced some recommendations that they feel will greatly assist in the process of the probation and registration of land related documents.

- ✓ Probate Courts should have good record system so that when information on land related documents cannot be traced at CNDRA, CNDRA staff can revert to the Probate Court data base for assistance.
- ✓ Trained surveyors should be assigned at Probate Courts to authenticate correct ownership of all public land before judges effect probation.

Figure 3: Property Registration Flow Chart



5.0 CONCLUSION

The following clues are drawn from the findings of the study:

All court staff are aware of the types of services the Probate Court provide for the public and averred that the public is aware of the procedure required for the probation of land related documents. And that the public has been informed of the probation procedure through radios, flyers, one on one education with clients visiting the court. Ironically it is interesting to note that only 10% of the respondents correctly stated the probation of land related documents

procedure. When courts are in session the probation process takes shorter time, approximately less than a week than when they are not. For example alternative means client revert to when courts are not in session requires one to three months to complete probation of land related documents. When the outstation courts are in session, it takes not more than a week to complete the probation process. Majority of clients registering land related documents at the Probate Court said the actual amount they pay for the probation process is in the range of USD\$25-50 contrary to the official fee of \$15-20USD disclosed by the court. There is a significant cash difference between the official probation fee and the actual amount paid. Not many people in the outstation counties are aware of the steps required for the probation of land related documents. Clients pay 'tips or cold water' to hasten the probation of their documents. The steps required for the probation of land related documents are the same in all counties. Probation is an indispensable legal requirement that precedes the registration of land related documents at the CNDRA, so any delay in the probation process correspondingly slows down the pace of land deeds registration at the CNDRA. Indeed probation adds undue time to deed registry, particularly for outstation counties. There is weak mechanism in place for ensuring the legitimacy of land ownership before being sold to a buyer. As such a land that is probated one person could be claimed by another, thus bring about conflict. Hence, probation of land related documents does not necessarily guarantee ownership, tenure and security. The three day notice period published by the court with the intent of obtaining feedback regarding the legitimacy of the land being probated from the public is too short.

6.0 RECOMMENDATIONS

Whereas the Probate Court involvement in land transaction in Liberia remains a constitutional mandate, the Judiciary must strengthen the probation process to an extent that ensures the significant reduction of the number of days associated with the probation of land related documents, particularly for outstation counties. For example when the outstation county courts are closed GOL must ensure key court staff members have the requisite knowledge and skills to continue the probation of land related documents instead of waiting for the reopening of court which takes longer time.

The outstation county courts need to intensify awareness campaign for the public on the steps required for the probation of land related documents. The best medium for such awareness must be community radio stations. The Judiciary must establish a mechanism that will eradicate the practice of gratuity ("cold water" or "under the table tips") payment to expedite the probation process. The Court must establish a system that ensures thorough background investigation of the legitimacy of land ownership before probating, and should not rely only on exception from the public within the three day public notice published by the court.

APPENDICES

Annex I: Field Survey Teams

Supervisor

Curtis H. Taylor

Team Leaders

1. Fred Sosu
2. Roland Martin
3. Prince T.K. Sirleaf
4. Oretha Perry

Enumerators

1. Matthew Warlonfa
2. Mawen Gobeh
3. Patricia Tengen
4. Aaron Kawreh
5. Sao Suakolie
6. Konah Yeantee

Annex II: Key Informant Interview

Perception study supporting Liberia Land Project (LPIS)

Interview Questionnaire

Topics: Probate Court

Questionnaire for Probate Court Officials:

Introduction

The Liberian government is working on land issues, including land policies, how surveys are done, how deeds are registered, and how land records should be kept. This survey is about the role of the Probate Court in Liberia's land administration system. The specific purpose(s) of the survey are threefold:

- A vivid description of the role of the Probate Court in land transaction process in Liberia, by Probate Court staff themselves.
- The knowledge of the public on the role of the Probate Courts coupled with personal experiences of customers who have undergone the probation process.

- How the Probate Court activities impact the land transaction process.

The findings from this study will inform the Liberian Government on how to further improve services provided by the Probate Court.

Please feel free to participate in this study and we want to assure you that any information you provide will be kept confidential. Your participation in the interview will not have any impact on the probation of any title documents you may acquire in future.

1. Explain the probation services the Circuit Court provides the public in this county for the probation of land related documents
2. What are the steps one need to go through to complete probation of land related documents at this court?
3. Do you think the public knows these steps? Yes or No
4. If yes, how do you think the public receives the awareness?
5. Do you require the land owner or lessee himself/herself go through the probation processes at your court? Yes No
- 5.1 If no, who else can do it for the owner instead?
6. What does the court charge for the probation of land deed?
7. What does the court charge for the probation of lease agreement?
8. How long does the probation process take when the court is in session?
9. When the Circuit Court closes for a particular term, what alternative options does the court provide the public for deed and lease registration?
10. How long does that alternative take for the completion of probation?

Questionnaire for CNDRA and DLSC Senior Managers

Introduction

The Liberian government is working on land issues, including land policies, how surveys are done, how deeds are registered, and how land records should be kept. This survey is about the role of the Probate Court in Liberia's land administration system. The specific purpose(s) of the survey are threefold:

- A vivid description of the role of the Probate Court in land transaction process in Liberia, by Probate Court staff themselves
- The knowledge of the public on the role of the Probate Courts coupled with personal experiences of customers who have undergone the probate process.
- How the Probate Court activities impact the land transaction process

The findings from this study will inform the Liberian Government on how to further improve services provided by the Probate Court.

Please feel free to participate in this study and we want to assure you that any information you provide will be kept confidential. Your participation in the interview will not have any impact on the probate of any title documents you may acquire in future.

1. Explain the probate services the Circuit Court provides the public?
2. On the overall how would you rate the quality of probate services provided by the court?

Good

Excellent

Satisfactory

Unsatisfactory
3. What is your perception about the Probate Court's involvement on deed registration?
4. Does it accelerate the registration process or slows it down?
5. If it accelerates the process explain how?
6. If it does slow down the process explain how?
7. What would you recommend to improve the services of the Probate Court on land matter?

Key Informant Interview for Public

Perception Study supporting Liberia Land Project (LPIS)

Interview Questionnaire

Topics: Probate Court

ID #	Sex	Age	Education	Locality	Date	Time

Project description. Review with the informant in your own words:

The Liberian government is working on land issues, including land policies, how surveys are done, how deeds are registered, and how land records should be kept. This survey is about the role of the Probate Court in Liberia's land administration system. The specific purpose(s) of the survey are threefold:

- A vivid description of the role of the Probate Court in land transaction process in Liberia, by Probate Court staff themselves
- The knowledge of the public on the role of the Probate Courts coupled with personal experiences of customers who have undergone the probate process.
- How the Probate Court activities impact the land transaction acquisition process

The findings from this study will inform the Liberian Government on how to further improve services provided by the Probate Court. Please feel free to participate in this study and we want to assure you that any information you provide will be kept confidential. Your participation in the interview will not have any impact on the probate of any title documents you may acquire in future.

1. Explain the probate services the Circuit Court provides the public in this county for the probate of land related documents
2. What the steps do you know are required in order to complete the probate of land related documents at the Circuit Court?
3. How did you learn about the steps?
4. Did you probate your deed or have someone else do it for you?
 - 4.1 If NOT yourself, why didn't you do it yourself?
 - 4.2 Who did it for you?

5. What did the Probate Court tell you is the cost of probation?
6. How much did you actually pay?
7. Did you receive an official receipt bearing the exact amount you paid?
8. Did you pay any other fees (tips or cold water) and for what services?
9. How long did it take you to complete the probation process?
10. Have you had an experience yourself wherein the land whose deed you have probated was claimed by another person, hence bringing about dispute? Yes/No
 - 10.1 If yes, where did you go to address this issue?
11. When the Circuit Court closes for a particular term, what other means do they give you?
12. Have you used these options before? Yes/No
13. How long did that alternative (other means) take you for the completion of probation?